

## COMMON INTEREST COMMUNITY BOARD

### MINUTES OF MEETING

The Common Interest Community Board met on Tuesday, September 28, 2010, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room 2, Richmond, Virginia 23233.

The following members were present:

F. James Ahlberg (arrived at 9:38 a.m.)  
Pamela Coerse  
Ronda S. DeSplinter  
Kimberly B. Kacani, Vice Chair  
Douglas Kleine  
Milton W. Matthews  
R. Lee Merritt  
Scott Sterling  
Lucia Anna Trigiani, Chair  
Katherine Waddell

Board member Miyun Sung was not in attendance.

DPOR staff present for all or part of the meeting included:

Gordon Dixon, Director  
Mark N. Courtney, Deputy Director of LRD  
Nick Christner, Deputy Director of CID  
Trisha L. Henshaw, Executive Director  
Heather Gillespie, Ombudsman  
Thomas K. Perry, Property Registration Administrator  
Jesstina Adelman, Program Analyst  
Betty C. Jones, Administrative Assistant

Steven Jack from the Office of the Attorney General was present.

Finding a quorum of the Board present, Ms. Trigiani, Chair, called the meeting to order at 9:35 a.m. **Call to Order**

Ms. Coerse moved to approve the agenda as amended. Ms. Waddell seconded the motion which was unanimously approved by: Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell. **Approval of Agenda**

Mr. Ahlberg arrived at 9:38 a.m.

**Arrival of Board**

**Member**

Ms. Coerse moved that the Board approve the minutes of the July 9, 2010, meeting. Ms. Kacani seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

**Approval of Minutes**

Ms. Trigiani opened the floor for public comment. Mr. Robert Warrick, President of Lake Vista Property Owners' Association and Mr. Robert Bauer, the association's manager, addressed the Board during the Public Comment Period. They provided a handout that contained their concerns in obtaining the experience and education required for a common interest community manager license by June 30, 2011. Mr. Warrick thanked the Board for listening to their concerns.

**Public Comment  
Period**

Ms. Henshaw distributed an e-mail from Terri Hillaert, president of POA Management Associates, LLC expressing her concerns about the financial impact the Common Interest Community Manager Regulations have had, and will continue to have, on small property management firms. The Board asked Ms. Henshaw to respond to Ms. Hillaert's letter.

Ms. Trigiani stated that the Board made every effort to stay within the limits of the statutes when developing the Common Interest Community Manager Regulations.

Ms. Henshaw gave an update on the status to-date of the regulatory review processes for several of the Board's regulatory packages.

**Update on  
Regulatory Review  
Processes**

- The Common Interest Community Ombudsman Regulations are currently undergoing review by the Governor's office.
- The Common Interest Community Manager Regulations containing the employee certification provisions are currently undergoing review by the Secretary's office.
- The Common Interest Community Manager Regulations containing the temporary license provisions are currently undergoing review by the Governor's office.
- The Condominium Regulations (fast-track) governing the return of bonds and letters of credit are currently undergoing review by the Governor's office.

Ms. Henshaw discussed the next regulatory review package. After

**Discussion of Next**

discussion, the Board agreed by consensus that the Board will begin regulatory review of the Condominium Regulations, and review of the Time-Share Regulations should be delayed until after legislative changes that are anticipated in 2011. At the December meeting, the Board will adopt a Notice of Intended Regulatory Action (NOIRA), select committee members, and schedule meeting dates.

**Regulatory Review  
Package**

Ms. Trigiani requested the names of any possible committee members the Board members may have be sent to Ms. Henshaw before the next Board meeting.

Ms. Henshaw opened the floor for nominations of Chair and Vice Chair. Mr. Matthews made a motion to nominate Ms. Trigiani as Chair. Ms. Coerse seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, and Waddell. Ms. Kacani made a motion to close the nomination. Ms. Coerse seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, and Waddell. By acclamation, Ms. Trigiani was elected Chair.

**Election of Officers**

Ms. Coerse made a motion to nominate Ms. Kacani as Vice Chair. Ms. DeSplinter seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell. Ms. Waddell made a motion to close the nomination. Mr. Ahlberg seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell. By acclamation, Ms. Kacani was elected Vice Chair.

Ms. Henshaw explained to the Board that a number of sections in the Condominium Act and the Virginia Real Estate Time-Share Act contain provisions regarding orders for registration, rejection, and termination. After reviewing these sections, Ms. Henshaw prepared for Board consideration draft orders pertaining to these provisions. In addition to capturing the current state of the condominium or time-share projects, the orders formalize the process to maintain and update the registration, including, but not limited to, reporting any changes to the public offering statement, and to maintain and update the registration, including the maintenance of the bonds and/or letters of credit. There was much discussion by the Board as to whether the public offering statement date should be included in the orders. The Board discussed the need for annual updates to the public offering statement since the tax rates change annually. After discussion, the orders presented by staff were approved by consensus.

**Discussion of Orders  
of Registration,  
Orders of Rejection,  
and Orders of  
Termination for  
Time-Shares and  
Condominiums**

Ms. Trigiani suggested that staff needs to communicate with the regular condominium and time-share filers (declarants, developers, and attorneys) indicating the Board will begin issuing orders of registration, rejection, and termination of time-share and condominium projects. This applies only to new time-share and condominium filings.

Ms. Henshaw gave an update on the status of the Consent Order and the Cease and Desist Order entered in the matter of File Number 2010-04291 for Alexander Properties, Inc. The monetary penalties and the board costs due in September have not been paid and the matter has been referred for collection. The terms of the Cease and Desist Order must be complied with by December 31, 2010.

**Update on Status  
of Consent Order  
and Cease and  
Desist Order for  
File Number 2010-  
04291**

Mr. Jack informed the Board that he filed the Consent Order for File Number 2010-04291 for Alexander Properties, Inc. with the Shenandoah County Circuit Court in accordance with the terms of the Order.

The Board recessed at 10:50 a.m. and reconvened at 11:11 a.m.

**Break**

Ms. Henshaw discussed a common interest community manager survey that was distributed to licensed managers to gather data about the current and anticipated training and experience of employees of licensed common interest community managers. This survey will provide the Board with valuable information to aid in the development of regulations governing common interest community management firms and certain employees that must obtain principal or supervisory employee certification. Ms. Henshaw indicated that staff will compile the results of the survey for review at its next meeting.

**Discussion of CIC  
Manager Survey**

Ms. Trigiani suggested that Community Associations Institute (CAI) send an announcement to their Virginia membership that the Board has a survey online for current and prospective managers.

Ms. Adelman discussed the development of a board newsletter. The newsletter would be made available on the Board's website as an electronic document. The goal of the newsletter is to keep regulants and other industry professionals informed of the activities of the Board and the Ombudsman's office. Furthermore, the newsletter would serve as a forum to provide board updates and reminders, answer frequently asked questions, and public disciplinary actions. Ms. Adelman advised that a draft of the newsletter would be provided for the Board at its meeting on December 2, 2010.

**Discussion of Board  
Newsletter**

The Board discussed topics that may be included in the newsletter and ways to communicate with the public and interested parties.

Ms. Henshaw provided a presentation on the Common Interest Community Management Recovery Fund. She discussed the following: the general provisions for handling a claim with the recovery fund, how the recovery fund is funded, and the current status of the recovery fund.

**Recovery Fund  
Presentation**

Also, a copy of the Common Interest Management Recovery Fund Financial Statements for the month ended July 31, 2010, was provided.

The Board was provided with an update on proposals for the 2011 General Assembly Session. Ms. Henshaw notified the Board that the legislative recommendations made by the Board at the last meeting have been put forward for consideration.

**Legislative Update**

The following resolution was presented for consideration by the Board and read by Ms. Trigiani.

**Consideration of  
Resolution for Jay  
DeBoer**

**Resolution for**

***Jay W. DeBoer***

WHEREAS, **Jay W. DeBoer**, did faithfully and diligently serve the Virginia Common Interest Community Board from 2008 to 2010 as the Director of the Department of Professional and Occupational Regulation; and

WHEREAS, **Jay W. DeBoer**, did devote generously of his time, talent and leadership to the Board; and

WHEREAS, **Jay W. DeBoer**, did endeavor at all times to render assistance and advice to the Board with fairness and good judgment in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Virginia Common Interest Community Board wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth.

NOW, THEREFORE, BE IT RESOLVED, by the Virginia Common Interest Community Board this twenty-eighth day of September 2010, that **Jay W. DeBoer**, be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens; and, be it

FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

Ms. DeSplinter made a motion to adopt the resolution. Mr. Sterling seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

Ms. Henshaw provided a copy of statistical information on common interest community applications and licenses, including the number of new applications filed, percentage of applications received, the regulant population for August 2010, and the number of telephone calls and e-mail messages received in the Board office.

**Licensing/  
Registration  
Statistics**

Ms. Henshaw provided an update on unlicensed/unregistered activity of the common interest community managers. Staff sent letters to 137 entities, including 84 associations and 53 common interest community managers, to provide information on the licensure and registration requirements. Of these, approximately 70% have been resolved and several have been referred to the Compliance Investigations Division (CID) for further investigation.

**Update on  
Unlicensed/  
Unregistered  
Activity**

Ms. Gillespie provided a handout on the activities of the Office of the Common Interest Community Ombudsman, including statistical information on complaints filed with the Ombudsman's office.

**Ombudsman's  
Report**

- ❖ Current complaint/file statistics
- ❖ Board Actions (or lack thereof) continue to be the primary complaint with a focus on access to records, due process, assessments (especially special assessments), elections, and use or misuse of power
- ❖ Time-Share complaints continue to center on perceived misrepresentations at the time-share presentations and the subsequent decision by purchaser to enter into a contract
- ❖ Over the past three months a number of very angry complainants contact the Director due to their dissatisfaction with the outcome of their complaint. This seems to be part of an increasing frustration with the lack of approved regulations.

Ms. Gillespie also provided dates that she has speaking engagements scheduled in the near future.

Ms. Henshaw presented to the Board the most recent financial statement

**Board Financial**

for informational purposes.

**Statements**

The Board previously requested that staff compile a calendar of the common interest community-related events and dates that staff and the Ombudsman's office attends. The requested information was provided to the Board with the agenda package for information purposes only.

**Staff Event  
Calendar**

The Board members were reminded to complete their conflict of interest forms and travel vouchers.

**Conflict of Interest  
and Travel Voucher  
Forms**

There being no further business, the meeting was adjourned at 12:50 p.m.

**Adjourn**

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Lucia Anna Trigiani, Chair

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Gordon N. Dixon, Secretary